

# STATEMENT OF SCOPE

## Department of Safety and Professional Services

Rule No.: REEB 15 and 18

Relating to: Obligation to Furnish Copies and Maintain Records, and Trust Accounts

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

N/A

### 2. Detailed description of the objective of the proposed rule:

Chapter REEB 15, Real Estate Broker's Obligation to Furnish Copies and Maintain Records, was created in November 1985 (as ch. RL 15) and with the exception of a minor correction in authority and chapter renumbering, there have been no substantial changes since this rule became effective. At this time the Real Estate Examining Board (the Board) intends in this proposed revision to make minor corrections in format, update the chapter to reflect any statutory changes, provide clarification where appropriate and allow new and current technology in records retention.

Chapter REEB 18, Trust Accounts, is added to this scope statement as provisions for maintaining records in ch. REEB 15 may allow the retention of records in electronic formats and the use of current electronic software. The bookkeeping section, s. REEB 18.13, may be revised to allow similar technology as in ch. REEB 15. In addition, depository institutions currently provide options for electronic bank statements and exporting such financial data to bookkeeping software. When requested by the department or board as in s. REEB 18.036, these records may be determined to be in an acceptable format. With the exception of renumbering and minor changes, this chapter has not been revised since 1994.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing rules relating to the retention of certain records that are used in the practice of real estate can be found in s. REEB 15.04. This section requires a real estate broker to retain for at least 3 years exact copies of documents and correspondence utilized in connection with any transaction. These documents and correspondence must be made available to the Department of Safety and Professional Services (the department) or the Board for inspection and copying upon request. The proposed rule may clarify what comprises a record. In addition, the proposed revision intends to provide the broker the ability to retain records in electronic format, stipulate retention times and offer possible discipline for not providing such records when so requested.

Existing rules relating to bookkeeping systems and examination of bank records are found in ch. REEB 18. It is widely known that ledger and journaling financial software is utilized in the real estate industry; the Board intends that these rule revisions recognize current practice and modernize the provisions for records and recordkeeping.

No new policies are expected to be created in these revisions. The alternative to not updating these chapters is that record storage and current prescribed bookkeeping formats may continue to be costly and duplicative.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 15.08 (5) (b), Stats.: This section requires any examining board to promulgate rules for their own guidance or the guidance of the respective trade or profession.

Section 227.11 (2), Stats.: This section confers that each agency has rule-making powers interpreting the authority to enforce and administer as provided in the statutes.

Section 452.07, Stats.: This section provides the Real Estate Examining Board the express authority to draft and approve rules relating to the guidance of the real estate profession. "S. 452.07 Rules. (1) The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice."

Section 452.13, Stats.: This section outlines procedures for brokers regarding their trust accounts, interest-bearing accounts and furnishing financial documents to the department, board or the Department of Administration on request.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The staff time needed to develop the rules is expected to be about 210 hours, depending on the complexity. This includes coordinating the rule-making process with the Board, research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

**6. List with description of all entities that may be affected by the proposed rule:**

Real estate licensees.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

An Internet search of the U.S. Code and the code of federal regulations (CFR) did not reveal any existing or proposed regulations at the federal level for: applications and education relating to the licensing of real estate brokers and real estate salespersons, real estate broker's trust accounts, records retention or records kept in a specific format.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The anticipated cost of complying with the proposed rule is deemed minimal to none as it is expected that any electronic format required would include various options and may already be utilized.

**Contact Person:** Jean MacCubbin, Program Manager, Division of Policy Development, Department of Safety and Professional Services; P.O. Box 8935; Madison WI 53708; phone: 608.266.0955 or contact Through Relay; email: [Jean.MacCubbin@wisconsin.gov](mailto:Jean.MacCubbin@wisconsin.gov).

  
Chairman Real Estate Examining Board

6-27-13  
Date Submitted